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23413 7590 12/23/2008 CANTOR COLBURN, LLP 20 Church Street 22nd Floor Hartford, CT 06103				
EXAMINER PRESTON, JOHN O				
ART UNIT 3691		PAPER NUMBER		
NOTIFICATION DATE 12/23/2008		DELIVERY MODE ELECTRONIC		

Please find below and/or attached an Office communication concerning this application or proceeding.

The time period for reply, if any, is set in the attached communication.

Notice of the Office communication was sent electronically on above-indicated "Notification Date" to the following e-mail address(es):

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Office Action Summary

Application No.

10/586,988

Applicant(s)

KU ET AL.

Examiner

JOHN O. PRESTON

Art Unit

3691

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --
Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 27 August 2008.
- 2a) ☒ This action is **FINAL**. 2b) ☐ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-6, 8-13 and 15-17 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 1-6, 8-13 and 15-17 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on _____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☒ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☒ All b) ☐ Some * c) ☐ None of:
1. ☒ Certified copies of the priority documents have been received.
 2. ☐ Certified copies of the priority documents have been received in Application No. _____.
 3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- 1) ☒ Notice of References Cited (PTO-892)
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- 3) ☒ Information Disclosure Statement(s) (PTO/S508)
Paper No(s)/Mail Date _____
- 4) ☐ Interview Summary (PTO-413)
Paper No(s)/Mail Date _____
- 5) ☐ Notice of Informal Patent Application
- 6) ☐ Other: _____

DETAILED ACTION

1. Claims 1-6, 8-13, and 15-17 are presented for examination. Applicant filed an amendment on August 27, 2008. Claims 7 and 14 are canceled. Claims 1, 2, 4-6, 8-10, 13, and 15-17 are amended. After careful consideration of applicant's arguments/amendments, the examiner maintains the grounds of rejection under 35 USC 103 for claims 1-6, 8-13, and 15-17. Therefore, the rejection of claims 1-6, 8-13, and 15-17 is a final rejection of the claims.

Response to Arguments

2. Applicant argues that the cited references neither teach nor suggest accumulating entrance fees, comparing the accumulated entrance fee with a maximum payable bid price and refunding some of the entrance fee to each buyer (bidder) under certain conditions. Examiner respectfully disagrees. During patent examination, the pending claims must be "given their broadest reasonable interpretation consistent with the specification." Disclosures may also be express, implicit, or inherent. Based on the broadest reasonable interpretation of the claims, Examiner found that the cited references, when combined, either taught or suggested every limitation. For instance, Salls suggests accumulating entrance fees in the form of raffle tickets. The entrance fee type cited in Salls is variable because a participant is free to purchase more than one raffle ticket, thus making the entrance fee vary depending upon the number of raffle tickets purchased. The method in Salls accumulates the entrance fees, and once the aggregate amount reaches a preset threshold (which suggests a maximum payable bid price), closes the opportunity to place additional bids. It is also clear that Walker (US 2003/0032476 A1) discloses refunding an entry fee to bidders under certain conditions (Walker: pg. 13, pgh 140). Therefore, Examiner finds Applicant's arguments non-persuasive. Examiner maintains the rejection of claims 1-6, 8-13, and 15-17 under 35 USC 103.
3. Applicant argues that no motivation exists in the cited references. Examiner respectfully disagrees. Where Examiner used two or more references to establish obviousness, an explanation was clearly provided to show why it would have been obvious to a person having

ordinary skill in the art to combine the elements of the cited references to achieve the expected results. Furthermore, the rationale to modify or combine the prior art does not have to be expressly stated in the prior art; the rationale may be expressly or impliedly contained in the prior art or it may be reasoned from knowledge generally available to one of ordinary skill in the art, established scientific principles, or legal precedent established by prior case law. Therefore, Examiner finds Applicant's arguments non-persuasive. Examiner maintains the rejection of claims 1-6, 8-13, and 15-17 under 35 USC 103.

Claim Rejections - 35 USC § 112

4. The following is a quotation of the second paragraph of 35 U.S.C. 112:

The specification shall conclude with one or more claims particularly pointing out and distinctly claiming the subject matter which the applicant regards as his invention.

Claim 10 is rejected under 35 U.S.C. 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention. Claim 10 in its current form creates confusion as to whether a system or a method is claimed. For examination purposes, claim 10 is treated as a method.

Claim Rejections - 35 USC § 101

5. 35 U.S.C. 101 reads as follows:

Whoever invents or discovers any new and useful process, machine, manufacture, or composition of matter, or any new and useful improvement thereof, may obtain a patent therefor, subject to the conditions and requirements of this title.

Claims 1-9 and 16 are rejected under 35 U.S.C. 101 because the claimed invention is directed to non-statutory subject matter. Claims 1-9 and 16 are directed to a system type claim yet the claim limitations are directed to software and therefore not statutory under 35 U.S. C. 101.

Claims 10-15 and 17 are rejected under 35 U.S.C. 101 because the claimed invention is directed to non-statutory subject matter. Regarding claims 10-15 and 17, as best understood, it appears

that the claimed method steps could simply be performed by mental process alone and are not statutory. Based on Supreme Court precedent, a proper process must be tied to another statutory class or transform underlying subject matter to a different state or thing (*Diamond v. Diehr*, 450 U.S. 175, 184 (1981); *Parker v. Flook*, 437 U.S. 584, 588 n.9 (1978); *Gottschalk v. Benson*, 409 U.S. 63, 70 (1972); *Cochrane v. Deener*, 94 U.S. 780,787-88 (1876)). Since neither of these requirements is met by the claim, the method is not considered a patent eligible process under 35 U.S.C. 101. To qualify as a statutory process, the claim should positively recite the other statutory class to which it is tied, for example by identifying the apparatus that accomplished the method steps or positively reciting the subject matter that is being transformed, for example by identifying the material that is being changed to a different state. Claims 10-15 and 17 are directed towards steps of "receiving", "posting", "determining", "calculating", "collecting", "terminating", "comparing", and "giving". Since the claims are directed to a process without including another statutory class of invention (i.e. machine, manufacture, or composition of matter), these claims fall within the scope of human intelligence alone, and are non-statutory.

Claim Rejections - 35 USC § 103

6. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

The factual inquiries set forth in *Graham v. John Deere Co.*, 383 U.S. 1, 148 USPQ 459 (1966), that are applied for establishing a background for determining obviousness under 35 U.S.C. 103(a) are summarized as follows:

1. Determining the scope and contents of the prior art.
 2. Ascertaining the differences between the prior art and the claims at issue.
 3. Resolving the level of ordinary skill in the pertinent art.
 4. Considering objective evidence present in the application indicating obviousness or nonobviousness.
7. Claims 1-4, 6, 9-11, 13, and 15 are rejected under 35 U.S.C. 103(a) as being unpatentable over Salls (US 2003/0050853 A1) and in view of Harrington (6,161,099), and further in view of Grey (US 2002/0174054 A1), and in view of Otero (US 2005/0027623 A1), and in view of Walker (US 2003/0032476 A1).

Claim 1: In regard to the following limitation, Salls suggests:

- a bid execution module requesting the buyer to pay an initial entrance fee of an item when a buyer is determined as being qualified for bidding for the item, collecting an initial entrance fee of the item from the buyer, requesting the buyer to set a tender price for the item, and inputting the tender price; a bid terminator module determining whether to terminate a bid for an item based on at least one among auction duration of the item, for which the bid is being executed by the bid execution module, and an accumulated entrance fee resulting from the bid of each of buyers for the item; (Salls: pg 1, pg 6)
- a database unit storing auction condition information comprising an open market selling price and an entry fee (See at least Salls: Figs. 1 and 6; pg. 1, paragraph 6. Salls teaches a system wherein a database holds information about a selling price for an item and an entrance fee for a participant.)
- an entrance fee refund processor module, if the entrance fee type of the item is a variable type where an initial entrance fee varies with an accumulated entrance fee of the item and a total number of bidders for the item which are obtained, comparing the accumulated entrance fee of the item with a maximum payable bid price of the item after the bid for the item is terminated, (Salls: pg 1, pg 6)

Salls does not explicitly disclose the remaining limitations. However, Harrington suggests:

- a database unit storing auction condition information comprising an auction quantity, and auction duration, of an item auctioned through the Internet, bid history information of a buyer wishing to purchase the item through the Internet, and bid details information of the item; (See at least Harrington: Fig. 6; col. 7, lines 20-30, 35-40; col. 10, lines 30-40, col. 11, lines 40-50. Harrington teaches a system wherein a database stores information on auction quantity, auction duration, and bid history and details.)
- an item registration module allowing a seller to register auction condition information of an item or directly register the auction condition information (Harrington: col. 6, lines 25-37; col. 7, line 65- col. 8, line 15. Harrington teaches a system wherein a seller registers auction condition information on a website)
- a bid qualification determiner module determining whether a buyer is qualified for bidding for an item based on the buyer's bid history information in response to the buyer's request for permission to bid for the item; (See at least Harrington: col. 7, lines 20-30. Harrington teaches a system wherein potential bidders are screened and registered on the computer network.)

It would have been obvious to one of ordinary skill in the art at the time the invention was made to combine the elements cited in Salls with the elements as taught by Harrington because the claimed invention is merely a combination of old elements, and in the combination each element merely would have performed the same function as it did separately. Salls/Harrington does not disclose the remaining limitations. However, Grey suggests:

- posting the item and the auction condition information to a web site when an auction start time of the registered item is encountered; (Grey: pg 3, pg 38.

Grey teaches a system wherein a seller can submit information about the item to be auctioned)

It would have been obvious to one of ordinary skill in the art at the time the invention was made to combine the elements cited in Salls/Harrington with the elements as taught by Grey because the claimed invention is merely a combination of old elements, and in the combination each element merely would have performed the same function as it did separately. Salls/Harrington/Grey does not teach the remaining limitations. However, Otero suggests:

- a successful bidder selector module calculating a reference contract price using a minimum contract price and a maximum contract price of an item and a random number induced by a random probability function after a bid for the item is terminated, comparing the reference contract price with a tender price set by each of buyers, and selecting as a successful bidder a buyer that has set a tender price closest to the reference contract price or close in a predetermined sequence to the reference contract price; (Otero: pg 2, pgh 14, Otero teaches a system that selects a winning participant in a game of chance)
- a delivery/payment processor module collecting a tender price set by a buyer selected as a successful bidder, performing a process to deliver an item to the successful bidder, and giving a sales payment to a seller of the item; (Otero: pg 2, pgh 15, pg 4, pgh 41. Otero teaches a system that collects and distributes donated funds and delivers a prize to the winning participant)

It would have been obvious to one of ordinary skill in the art at the time the invention was made to combine the elements cited in Salls/Harrington/Grey with the elements as taught by Otero because the claimed invention is merely a combination of old elements, and in the combination each element merely would have performed the same function as it did separately.

Salls/Harrington/Grey/Otero does not teach the remaining limitation. However, Walker suggests:

- refunding each of bidders having bidden for the item an amount of money obtained by dividing a surplus of the accumulated entrance fee by a total number of the bidders when the accumulated entrance fee exceeds the maximum payable bid price, but otherwise not refunding. (Walker: pg 13, pgh 140)

It would have been obvious to one of ordinary skill in the art at the time the invention was made to combine the elements cited in Salls/Harrington/Grey/Otero with the elements as taught by Walker because the claimed invention is merely a combination of old elements, and in the combination each element merely would have performed the same function as it did separately.

Claim 2: Salls/Harrington/Grey/Otero/Walker teaches the limitation(s) as shown in the rejection of claim 1. In regard to the following limitation, Salls further suggests:

- the item registration module calculates a maximum payable bid price, which can be paid as a sale payment for the item, using an open market selling price and auction quantity of the item. (Salls: pg. 4, pgh 37. Salls teaches a system that uses the seller asking price as the maximum price a seller can receive for his item)

Claim 3: Salls/Harrington/Grey/Otero/Walker teaches the limitation(s) as shown in the rejection of claim 2. In regard to the following limitation, Grey further suggests:

- the auction condition information further comprises a contract price setup range for the item, (Grey: pg 3, pgh 36)

It would have been obvious to one of ordinary skill in the art at the time the invention was made to combine the elements cited in Salls/Harrington/Otero/Walker with the elements as taught by Grey because the claimed invention is merely a combination of old elements, and in the

combination each element merely would have performed the same function as it did separately. In regard to the following limitations, Harrington further suggests:

- the buyer's bid history information comprises at least one among a total bid count and a total bid amount of a buyer obtained for an item or during a predetermined period of time, (Harrington: col 11, lines 40-50; col 12, lines 24-36)
- the bid details information of the item comprises information on a bidder bidding for the item and an accumulated entrance fee resulting from bidders' bidding for the item. (Harrington: col 7, lines 20-30; col 11, lines 20-45)

It would have been obvious to one of ordinary skill in the art at the time the invention was made to combine the elements cited in Salls/Grey/Otero/Walker with the elements as taught by Harrington because the claimed invention is merely a combination of old elements, and in the combination each element merely would have performed the same function as it did separately.

Claim 4: Salls/Harrington/Grey/Otero/Walker teaches the limitation(s) as shown in the rejection of claim 3. In regard to the following limitation, Salls further suggests:

- the bid qualification determiner module determines that the buyer is unqualified for bidding for the item when a total bid count or a total bid amount of the buyer obtained for the item or during a predetermined period of time exceeds a predetermined maximum available bid count or a predetermined maximum available bid amount, respectively. (Salls: pg 1, pgh 6. Salls teaches a system where all bids are rejected once a threshold amount has been deposited.)

Claim 6: Salls/Harrington/Grey/Otero/Walker teaches the limitation(s) as shown in the rejection of claim 3. In regard to the following limitation, Salls further suggests:

- if an entrance fee type of an item is the variable type where an initial entrance fee varies with an accumulated entrance fee of the item and a total number of bidders for the item which are obtained after the bid for the item is terminated,

(Salls: pg 1, pgh 6. Salls teaches a system where a participant's entrance fee depends on the number of tickets purchased.)

In regard to the remaining limitation, Grey further suggests:

- the bid terminator module terminates the bid for the item when an auction end time of the item based on the auction duration of the item is encountered. (Grey: pg 1, pgh 6; pg 4, pgh 45. Grey teaches a system that terminates the auction after a set amount of time has elapsed)

It would have been obvious to one of ordinary skill in the art at the time the invention was made to combine the elements cited in Salls/Harrington/Otero/Walker with the elements as taught by Grey because the claimed invention is merely a combination of old elements, and in the combination each element merely would have performed the same function as it did separately.

Claim 9: Salls/Harrington/Grey/Otero/Walker teaches the limitation(s) as shown in the rejection of claim 1. In regard to the following limitation, Salls further suggests:

- the successful bidder selector module calculates an absolute value of a difference between a reference contract price of an item and each of tender prices, selects as a successful bidder a bidder having set a tender price giving a minimum absolute value, or the successful bidder selector selects as the successful bidder a bidder having set a tender price closest to the reference contract price or close in a predetermined sequence to the reference contract price among tender prices that are at least or do not exceed the reference contract price. (Salls: pg 1, pgh 8)

Claim 10: In regard to the following limitation, Salls suggests:

- collecting an entrance fee of the item from the buyer when it is determined that the buyer is qualified, determining whether to terminate the bid for the item based on at least one among the auction duration of the item and an accumulated

entrance fee resulting from the bid of each of buyers for the item; recognizing that the entrance fee type of the item is a variable type where an initial entrance fee varies with an accumulated entrance fee of the item and a total number of bidders for the item which are obtained when the bid for the item is terminated, comparing the accumulated entrance fee with the maximum payable bid price, (Salls: pg 1, pgh 6)

- receiving auction condition information comprising an open market selling price and an entrance fee (Salls: Figs. 1 and 6; pg 1, pgh 6. Salls teaches a system wherein a database holds information about a selling price for an item and an entrance fee for a participant)

Salls does not teach the remaining limitations. However, Harrington suggests the following:

- (a) receiving auction condition information comprising an auction quantity, and an auction duration of an item from a seller wishing to sell the item through the communications network, (Harrington: Fig. 6; col 7, lines 20-30, 35-40; col 10, lines 30-40, col 11, lines 40-50. Harrington teaches a system wherein a database stores information on auction quantity, auction duration, and bid history and details)
- (b) determining whether a buyer accessing through the Internet communications network is qualified for bidding based on bid history information of the buyer in response to the buyer's request for permission to bid for the item, (Harrington: col 7, lines 20-30. Harrington teaches a system wherein potential bidders are screened and registered on the computer network)
- requesting the buyer to set and input a tender price of the item; (Harrington: col 10, lines 20-30)

- registering the auction condition information in the database unit, (Harrington: col 6, ines 25-37; col 7, line 65-col 8, line 15. Harrington teaches a system wherein a seller registers auction condition information on a website)

It would have been obvious to one of ordinary skill in the art at the time the invention was made to combine the elements cited in Salls with the elements as taught by Harrington because the claimed invention is merely a combination of old elements, and in the combination each element merely would have performed the same function as it did separately.

Salls/Harrington does not teach the remaining limitations. However, Grey suggests the following:

- posting the item and the auction condition information when an auction start time of the item is encountered; (Grey: pg 3, pgh 38. Grey teaches a system wherein a seller can submit information about the item to be auctioned)

It would have been obvious to one of ordinary skill in the art at the time the invention was made to combine the elements cited in Salls/Harrington with the elements as taught by Grey because the claimed invention is merely a combination of old elements, and in the combination each element merely would have performed the same function as it did separately.

Salls/Harrington/Grey does not teach the remaining limitations. However, Walker suggests the following:

- determining whether to refund according to the result of the comparison, and refunding some of the initial entrance fee of the item to each of the buyers having bidden for the item; (Walker: pg 13, pgh 140)

It would have been obvious to one of ordinary skill in the art at the time the invention was made to combine the elements cited in Salls/Harrington/Grey with the elements as taught by Walker because the claimed invention is merely a

combination of old elements, and in the combination each element merely would have performed the same function as it did separately.

Salls/Harrington/Grey/Walker does not teach the remaining limitations. However, Otero suggests the following:

- calculating a reference contract price using a minimum contract price and a maximum contract price of the item and a random number induced by a random probability function after the bid for the item is terminated, comparing the reference contract price with a tender price set by each of the buyers, and selecting as a successful bidder a buyer that has set a tender price closest to the reference contract price or close in a predetermined sequence to the reference contract price; (Otero: pg 2, pgh 14. Otero teaches a system that selects a winning participant in a game of chance)
- collecting the tender price set by the buyer selected as the successful bidder, performing a process to deliver the item to the successful bidder, and giving a sales payment to the seller of the item. (Otero: pg 2, pgh 15; pg 4, pgh 41. Otero teaches a system that collects and distributes donated funds and delivers a prize to the winning participant)

It would have been obvious to one of ordinary skill in the art at the time the invention was made to combine the elements cited in Salls/Harrington/Grey/Walker with the elements as taught by Otero because the claimed invention is merely a combination of old elements, and in the combination each element merely would have performed the same function as it did separately.

Claim 11: Salls/Harrington/Grey/Walker/Otero teaches the limitation(s) as shown in the rejection of claim 10. In regard to the following limitation, Salls further suggests:

- operation (a) comprises calculating a maximum payable bid price, which can be paid as the sale payment for the item, using the open market selling price and

the auction quantity of the item. (Salls: pg 4, pgh 37. Salls teaches a system that uses the seller asking price as the maximum price a seller can receive for his item)

Claim 13: Salls/Harrington/Grey/Walker/Otero teaches the limitation(s) as shown in the rejection of claim 11. In regard to the following limitation, Salls further suggests:

- operation (c) comprises, if an entrance fee type of the item is the variable type, (Salls: pg 1, pgh 6. Salls teaches a system where a participant's entrance fee depends on the number of tickets purchased)

In regard to the remaining limitation, Grey further suggests:

- terminating the bid for the item when an auction end time of the item based on the auction duration of the item is encountered. (Grey: pg 1, pgh 6; pg 4, pgh 45. Grey teaches a system that terminates the auction after a set amount of time has elapsed)

It would have been obvious to one of ordinary skill in the art at the time the invention was made to combine the elements cited in Salls/Harrington/Walker/Otero with the elements as taught by Grey because the claimed invention is merely a combination of old elements, and in the combination each element merely would have performed the same function as it did separately.

Claim 15: Salls/Harrington/Grey/Walker/Otero teaches the limitation(s) as shown in the rejection of claim 11. In regard to the following limitation, Salls further suggests:

- giving the seller of the item an amount of money not exceeding the maximum payable bid price in the accumulated entrance fee of the item and the tender price collected from the successful bidder for the item as the sales payment for the item. (Salls: pg 1, pgh 8)

Claim 16: Salls/Harrington/Grey/Otero/Walker teaches the limitation(s) as shown in the rejection of claim 1. In regard to the following limitation, Salls further suggests:

- the delivery/payment processor module gives a seller of the item an amount of money not exceeding the maximum payable bid price in the accumulated entrance fee of the item and a tender price collected from a successful bidder for the item as a sales payment for the item. (Salls: pg 1, pgh 8)

Claim 17: Salls/Harrington/Grey/Walker/Otero teaches the limitation(s) as shown in the rejection of claim 10. In regard to the following limitation:

- giving the seller of the item an amount of money not exceeding the maximum payable bid price in the accumulated entrance fee of the item and the tender price collected from the successful bidder for the item as the sales payment for the item. (Salls: pg 1, pgh 8)

8. Claims 5, 8, and 12 are rejected under 35 U.S.C. 103(a) as being unpatentable over Salls/Harrington/Grey/Otero/Walker and further in view of Walker2 (6,077,163).

Claim 5: Salls/Harrington/Grey/Otero/Walker teaches the limitation(s) as shown in the rejection of claim 3. In regard to the following limitation, Salls suggests:

- the bid terminator module terminates a bid for the item when an accumulated entrance fee of the item reaches a maximum payable bid price set for the item (Salls: pg 1, pgh 6)

In regard to the remaining limitations, Grey further suggests:

- when an auction end time of the item is encountered even though the accumulated entrance fee of the item does not reach the maximum payable bid price (Grey: pg 1, pgh 6; pg 4, pgh 45)

It would have been obvious to one of ordinary skill in the art at the time the invention was made to combine the elements cited in Salls/Harrington/Otero/Walker with the elements as taught by Grey because the claimed invention is merely a combination of old elements, and in the

combination each element merely would have performed the same function as it did separately.

In regard to the remaining limitation, Walker2 further suggests:

- if an entrance fee type of an item is a fixed type where an initial entrance fee is set as a final entrance fee (Walker2: col 1, lines 50-58)

It would have been obvious to one of ordinary skill in the art at the time the invention was made to combine the elements cited in Salls/Harrington/Grey/Otero with the elements as taught by Walker because the claimed invention is merely a combination of old elements, and in the combination each element merely would have performed the same function as it did separately.

Claim 8: Salls/Harrington/Grey/Otero/Walker/Walker2 teaches the limitation(s) as shown in the rejection of claim 5. In regard to the following limitation, Salls further suggests:

- the delivery/payment processor module gives a seller of the item an amount of money not exceeding the maximum payable bid price in the accumulated entrance fee of the item and a tender price collected from a successful bidder for the item as a sales payment for the item. (Salls: pg 1, pg 8)

Claim 12: Salls/Harrington/Grey/Walker/Otero teaches the limitation(s) as shown in the rejection of claim 11. In regard to the following limitation, Salls further suggests:

- terminating the bid for the item when the accumulated entrance fee of the item reaches the maximum payable bid price (Salls: pg 1, pg 6)

In regard to the remaining limitations, Grey further suggests:

- when an auction end time of the item is encountered even though the accumulated entrance fee of the item does not reach the maximum payable bid price. (Grey: pg 1, pg 6; pg 4, pg 45)

It would have been obvious to one of ordinary skill in the art at the time the invention was made to combine the elements cited in Salls/Harrington/Walker/Otero with the elements as taught by Grey because the claimed invention is merely a combination of old elements, and in the combination each element merely would have performed the same function as it did separately.

In regard to the remaining limitation, Walker further suggests

- if an entrance fee type of the item is a fixed type, (Walker2: col 1, lines 50-58)

It would have been obvious to one of ordinary skill in the art at the time the invention was made to combine the elements cited in Salls/Harrington/Grey/Otero with the elements as taught by Walker because the claimed invention is merely a combination of old elements, and in the combination each element merely would have performed the same function as it did separately.

Conclusion

9. **THIS ACTION IS MADE FINAL.** Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire THREE MONTHS from the mailing date of this action. In the event of a first reply is filed within TWO MONTHS of the mailing date of this final action and the advisory action is not mailed until after the end of the THREE MONTH shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the mailing date of this final action.

Any inquiry of a general nature or relating to the status of this application or concerning this communication or earlier communications from the Examiner should be directed to **John Preston**

whose telephone number is **571.270.3918**. The Examiner can normally be reached on Monday-Friday, 9:30am-5:00pm. If attempts to reach the examiner by telephone are unsuccessful, the Examiner's supervisor, **ALEXANDER KALINOWSKI** can be reached at **571.272.6771**.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://portal.uspto.gov/external/portal/pair> <<http://pair-direct.uspto.gov>>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at **866.217.9197** (toll-free).

Any response to this action should be mailed to:

Commissioner of Patents and Trademarks

P.O. Box 1450
Alexandria, VA 22313-1450
or faxed to **571-273-8300**

Hand delivered responses should be brought to:

United States Patent and Trademark Office

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Randolph Building
401 Dulany Street
Alexandria, VA 22314

/John O Preston/
Examiner, Art Unit 3691
December 15, 2008
/Alexander Kalinowski/
Supervisory Patent Examiner, Art Unit 3691